

COMMERCIAL BREEDERS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jackie Biskupski

Senate Sponsor: _____

LONG TITLE

General Description:

This bill prohibits, in certain circumstances, a commercial breeder from selling, soliciting, or advertising for purchase a dog or cat and amends a municipality's or county's authority to license a commercial breeder.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits, in certain circumstances, a commercial breeder from selling, soliciting, or advertising for purchase a dog or cat;
- ▶ requires:
 - a city auditor or city recorder to file with the State Tax Commission and a poundkeeper a report regarding a commercial breeder;
 - a county assessor to file with the State Tax Commission and a county animal control office, if any, a report regarding a commercial breeder;
 - a municipal land use authority to file with a poundkeeper a report regarding a commercial breeder; and
 - a county land use authority to file with a county animal control office, if any, a report regarding a commercial breeder;
- ▶ prohibits a municipality or county from issuing a commercial breeder a business license in certain circumstances;



- 28 ▶ prohibits a commercial breeder from maintaining or operating more than one kennel
- 29 at an address;
- 30 ▶ provides criminal penalties; and
- 31 ▶ makes technical corrections.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **10-8-4**, as last amended by Laws of Utah 2008, Chapter 78

39 **17-53-216**, as last amended by Laws of Utah 2008, Chapter 250

40 ENACTS:

41 **10-8-65.5**, Utah Code Annotated 1953

42 **17-50-332**, Utah Code Annotated 1953



44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **10-8-4** is amended to read:

46 **10-8-4. Special taxes and licenses.**

47 (1) Municipal legislative bodies may:

48 (a) subject to Subsection (2) and Section 10-8-65.5, fix the amount, terms, and manner

49 of issuing licenses; and

50 (b) consistent with general law, provide the manner and form in which special taxes are

51 levied and collected.

52 (2) (a) Municipal legislative bodies may not discriminate between resident community

53 businesses and nonresident community businesses in establishing license requirements.

54 (b) Municipal legislative bodies may not impose motor vehicle delivery license fees on

55 persons or entities who:

56 (i) are licensed as dealers in another municipality; or

57 (ii) do not have a permanent business location in the municipality.

58 Section 2. Section **10-8-65.5** is enacted to read:

59 10-8-65.5. Commercial breeders.60 (1) As used in this section:61 (a) (i) "Commercial breeder" means a person who, for a fee or other consideration:62 (A) maintains in a kennel at any time six or more dogs for breeding or six or more cats63 for breeding and sells, leases, trades, barter, auctions, or provides to another person the64 offspring of one of those dogs or cats; or65 (B) buys, sells, leases, trades, barter, or provides to another person a dog or cat at66 wholesale for resale to another.67 (ii) "Commercial breeder" does not include:68 (A) an animal shelter as defined in Section 10-17-102;69 (B) a pound established under Section 10-8-64; or70 (C) a person with five or fewer unsterilized dogs over six months old or five or fewer71 unsterilized cats over six months old.72 (b) "Kennel" means a facility where a commercial breeder keeps, houses, and73 maintains dogs or cats.74 (c) "Retailer" means a person who:75 (i) sells or distributes a dog or cat to a consumer in the state; or76 (ii) intends to sell or distribute a dog or cat to a consumer in the state.77 (2) A commercial breeder may not sell, solicit, or advertise for purchase a dog or cat78 unless the commercial breeder has:79 (a) a valid business license issued in accordance with Section 10-1-203;80 (b) completed a land use application and received approval for the land use application81 for each kennel from the land use authority in accordance with Section 10-9a-509.5; and82 (c) obtained a license described in Section 59-12-106 for each place of business.83 (3) (a) The city auditor or city recorder of a municipality that issues a commercial84 breeder a business license as described in Subsection (2)(a) shall report, in accordance with85 Subsection (3)(b), to the State Tax Commission and to a poundkeeper appointed by the86 municipality under Section 10-8-64:87 (i) the commercial breeder's name;88 (ii) the address of the commercial breeder's principal place of business;89 (iii) any other address provided by the commercial breeder; and

90 (iv) the name of the business if different from the commercial breeder's name.

91 (b) The city auditor or city recorder shall file the report described in Subsection (3)(a):

92 (i) within 30 days after the day on which the business license is issued; and

93 (ii) for a report filed with the State Tax Commission, on a written or an electronic form

94 provided by the State Tax Commission.

95 (4) A municipal land use authority that approves a land use application for a

96 commercial breeder in accordance with Section 10-9a-509.5 shall report the information listed

97 in Subsection (3)(a) to a poundkeeper appointed by the municipality under Section 10-8-64

98 within 30 days after the day on which the land use application is approved.

99 (5) If a commercial breeder is not licensed in accordance with 9 C.F.R. Chapter 1,

100 Subchapter A, a municipality:

101 (a) may not issue a business license under Section 10-1-203 to the commercial breeder;

102 or

103 (b) shall revoke a business license issued to a commercial breeder under Section

104 10-1-203.

105 (6) (a) A commercial breeder may not maintain or operate more than one kennel at an

106 address.

107 (b) If a municipality issues a license under Section 10-1-203 to a commercial breeder

108 who owns, leases, operates, or manages more than one kennel, the municipality shall review for

109 approval and issue a license for each kennel individually.

110 (7) This section does not affect or apply to:

111 (a) a dog used for authorized purposes by federal or state military;

112 (b) a dog that is specially trained for law enforcement work and used by law

113 enforcement for an authorized purpose; or

114 (c) a dog or cat kept by a pound established under Section 10-8-64 or an animal shelter

115 established under Section 10-17-102.

116 (8) A person who knowingly violates Subsection (2) or (6)(a) is guilty of a class A

117 misdemeanor.

118 Section 3. Section **17-50-332** is enacted to read:

119 **17-50-332. Commercial breeders.**

120 (1) As used in this section:

121 (a) (i) "Commercial breeder" means a person who, for a fee or other consideration:

122 (A) maintains in a kennel at any time six or more dogs for breeding or six or more cats
123 for breeding and sells, leases, trades, barter, auctions, or provides to another person the
124 offspring of one of those dogs or cats; or

125 (B) buys, sells, leases, trades, barter, or provides to another person a dog or cat at
126 wholesale for resale to another.

127 (ii) "Commercial breeder" does not include:

128 (A) an animal shelter as defined in Section 17-42-102; or

129 (B) a person with five or fewer unsterilized dogs over six months old or five or fewer
130 unsterilized cats over six months old.

131 (b) "Kennel" means a facility where a commercial breeder keeps, houses, and
132 maintains dogs or cats.

133 (c) "Retailer" means a person who:

134 (i) sells or distributes a dog or cat to a consumer in the state; or

135 (ii) intends to sell or distribute a dog or cat to a consumer in the state.

136 (2) A commercial breeder may not sell, solicit, or advertise for purchase a dog or cat
137 unless the commercial breeder has:

138 (a) a valid business license issued in accordance with Section 17-53-216;

139 (b) completed a land use application and received approval for the land use application
140 for each kennel from the land use authority in accordance with Section 17-27a-509.5; and

141 (c) obtained a license described in Section 59-12-106 for each place of business.

142 (3) (a) The county assessor of a county that issues a commercial breeder a business
143 license as described in Subsection (2)(a) shall report, in accordance with Subsection (3)(b), to
144 the State Tax Commission and a county animal control office, if any:

145 (i) the commercial breeder's name;

146 (ii) the address of the commercial breeder's principal place of business;

147 (iii) any other address provided by the commercial breeder; and

148 (iv) the name of the business if different than the commercial breeder's name.

149 (b) The county assessor shall file the report described in Subsection (3)(a):

150 (i) within 30 days after the day on which the business license is issued; and

151 (ii) for a report filed with the State Tax Commission, on a written or an electronic form

152 provided by the State Tax Commission.

153 (4) A county land use authority that approves a land use application for a commercial
154 breeder in accordance with Section 17-27a-509.5 shall report the information listed in
155 Subsection (3)(a) to a county animal control office, if any, within 30 days after the day on
156 which the land use application is approved.

157 (5) If a commercial breeder is not licensed in accordance with 9 C.F.R. Chapter 1,
158 Subchapter A, a county:

159 (a) may not issue a business license under Section 17-53-216 to the commercial
160 breeder; or

161 (b) shall revoke a business license issued to a commercial breeder under Section
162 17-53-216.

163 (6) (a) A commercial breeder may not maintain or operate more than one kennel at an
164 address.

165 (b) If a county issues a license under Section 17-53-216 to a commercial breeder who
166 owns, leases, operates, or manages more than one kennel, the county shall review for approval
167 and issue a license for each kennel individually.

168 (7) This section does not affect or apply to:

169 (a) a dog used for authorized purposes by federal or state military;

170 (b) a dog that is specially trained for law enforcement work and used by law
171 enforcement for an authorized purpose; or

172 (c) a dog or cat kept by an animal shelter established under Section 17-42-102.

173 (8) A person who knowingly violates Subsection (2) or (6)(a) is guilty of a class A
174 misdemeanor.

175 Section 4. Section **17-53-216** is amended to read:

176 **17-53-216. Business license fees and taxes -- Application information to be**
177 **transmitted to the county assessor.**

178 (1) For the purpose of this section, "business" means any enterprise carried on for the
179 purpose of gain or economic profit, except that the acts of employees rendering services to
180 employers are not included in this definition.

181 (2) (a) The legislative body of a county may by ordinance provide for the licensing of
182 businesses within the unincorporated areas of the county for the purpose of regulation and

183 revenue.

184 (b) A license issued to a commercial breeder as defined in Section 17-50-332 is subject
185 to the provisions of Section 17-50-332.

186 (3) All license fees and taxes shall be uniform in respect to the class upon which they
187 are imposed.

188 (4) The county business licensing agency shall transmit the information from each
189 approved business license application to the county assessor within 60 days following the
190 approval of the application.

191 (5) This section may not be construed to enhance, diminish, or otherwise alter the
192 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
193 144.

Legislative Review Note
as of 11-30-10 9:56 AM

Office of Legislative Research and General Counsel